

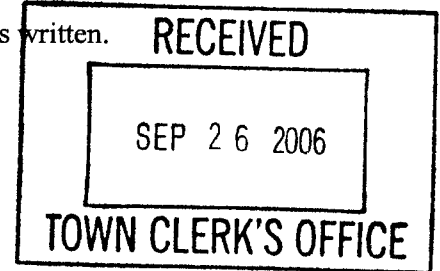


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TOWN CLERK ☐

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS -- Regular Session
AGENDA for SEPTEMBER 25, 2006

7:30 p.m. – Roll Call

Motion to accept minutes of JULY 24, 2006 & AUGUST 28, 2006 meetings as written.



PRELIMINARY MEETINGS:

1. JOHN PIZZO (06-52) Request for:

8,687 s.f. Minimum Lot Area
8ft * 15 ft * 5 ft. Front Yard Setback (Three Front Yards)
33% Developmental Coverage

For proposed New Office Building at the corners of Temple Hill Rd., Little Britain Rd. & Rt. 207 in a PO Zone (4-3-8)

2. MORONEY'S CYCLE SHOP (06-53) Request for:

3.365 Acres Minimum Lot Area	20 ft. Rear Yard Setback
46 ft. Side Yard Setback	12 ft. Building Height
62 ft. Total Side Yard Setback	0.4% Developmental Coverage
50 Parking Spaces	

For proposed New 4,950 s.f. building on Union Ave. (Rt. 300) in a C Zone (4-1-9.22 & 9.23)

3. COPPOLA ASSOCIATES (for Douglas Crana) Request for:

36,560 s.f. Minimum Lot Area	5 ft. Side Yard Setback
55 ft. Minimum Lot Width	26 ft. Rear Yard Setback
26 ft. Front Yard Setback	

For Proposed Single Family home at 22 Cedar Avenue in an R-4 Zone (13-8-12)

4. COPPOLA ASSOCIATES (for Arthur Glynn) Request for:

36,560 Minimum Lot Area	5 ft. Side Yard Setback
55 ft. Minimum Lot Width	10 ft. Total Side Yard Setback
26 ft. Front Yard Setback	22 ft. Rear Yard Setback

For Proposed Single Family home at 20 Cedar Avenue in an R-4 Zone (13-8-11)

PUBLIC HEARINGS:

- 5. ANDREW PERKAL (06-49) Request for 76 sq. ft. area and 5 ft. height for existing free-standing sign at 436 Blooming Grove Tpk. in and NC Zone (46-2-49)**
- 6. JAMES DUFFY (06-50) Request for Use Variance to permit a single family dwelling in a C Zone at 22 Old Riley Road (68-2-13.22)**
- 7. ROBERT RICCARDI (06-51) Request for 2 ft. Height for proposed fence in front yard at 4 Buttermilk Drive in a CL-1 Zone ((78-2-3)**

September 25, 2006

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
SEPTEMBER 25, 2006

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
KIMBERLY GANN
KATHLEEN LOCEY
ERIC LUNDSTROM
PAT TORPEY

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

REGULAR_MEETING

MR. KANE: I'd like to call to order the September 25,
2006 meeting of the New Windsor Zoning Board.

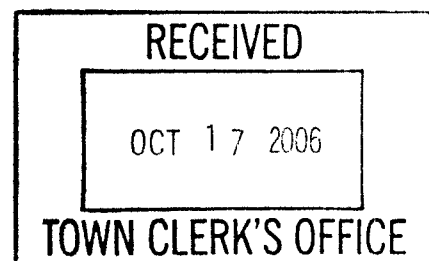
MINUTES_OF_JULY_24,_2006_&_AUGUST_28,_2006

MR. KANE: Motion to accept the minutes of July 24 and
August 28, 2006 meetings as written.

MS. GANN: So moved.

MS. LOCEY: I'll second that motion.

ROLL CALL



September 25, 2006

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MS. GANN	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PRELIMINARY_MEETINGS

JOHN_PIZZO_(06-52)

MR. KANE: Request for 8,687 square foot minimum lot area, 8 foot, 15 foot and 5 foot front yard setback (three front yards) and 33% developmental coverage for proposed new office building at the corners of Temple Hill Road, Little Britain Road and Route 207 in a PO zone.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: For the record, my name is Greg Shaw and I'm representing Pizzo Enterprises for requests for variances before the zoning board.

(Whereupon, Mr. Lundstrom entered the room.)

MR. SHAW: As the chairman mentioned, we're here before the board tonight to ask for a couple of variances, one is for the minimum lot area in the PO zone, you're obligated to provide 43,560 square feet and we're providing 34,783 square feet. I'd like to point out to the board that I think the size of that lot preceded zoning and it could be treated as an existing non-conforming condition but as it is, the board's policy when you come before them is to ask for variances, you also require that the variances be presented for the non-conforming conditions, therefore, that's why that's on the variance list. The second variance as the chairman said is for the setbacks in a PO zone. We're obligated to provide a 45 foot front yard setback. We have three of them therefore we're obligated to provide that distance from all three highways. What we're providing are 37, 30 and 40 which leaves a resultant three front yard variances of 8 feet, 15 feet and 5 feet. And finally with respect to the development coverage, your PO zone limits you to 20

percent and we're proposing 52.7 percent, therefore, requesting a variance of 33 percent. Now, those numbers may sound large but they're really not. I'm sure everyone on the board is familiar with this parcel, it's quite unique in that it is an island sandwiched between three state highways, it's rather small, about 35,000 square feet and we have presented a site plan where we're proposing to construct a one story office building 3,300 square feet, that's all the site can support. With respect to the parking, we have provided more than enough spaces so we're not asking for a variance for that, it's just that we cannot comply with the setback requirements. I did a little math and if we were to build within the building envelope after the setbacks are established and assuming that the building is a length of 60 feet which isn't very long, the maximum depth this office building could be would be 20 feet, a 1,200 square foot office is just not practical. So with that, we're asking that the board consider our variances and set us up for a public hearing. I did submit in the application a rather lengthy narrative which presents my case. If the board wants me, I will go through that or we can save that for the public hearing.

MR. KANE: We can save that, Greg. Just to clarify, you did say one story?

MR. SHAW: One story. And I may want to add that when this was presented to the planning board for a referral over to this board, they sent us with a positive recommendation. They also forewarned us that because this is on a, what is it, Mike, what type of an overlay, architectural overlay, Freedom Road?

MR. BABCOCK: Historical corridor.

MR. SHAW: They're going to want to see an architectural rendering when we return back but we did get a favorable response. Thank you, Mike.

MR. KANE: We all know the lot. I have no further questions at this point, no questions at all at this point. What about anybody on the board? Any questions at this point? Set him up for the public hearing, I'll accept a motion.

MS. LOCEY: I will offer a motion to schedule a public hearing on the application of John Pizzo for his requested variances as listed on the agenda of the September 25, 2006 Zoning Board of Appeals meeting.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: We'll read this and be ready at the public hearing.

MR. SHAW: Thank you.

MORONEY'S_CYCLE_SHOP_(06-53)

MR. KANE: Request for 3,365 acres minimum lot area, 46 foot side yard setback, 62 foot total side yard setback, 50 parking spaces, 20 foot rear yard setback, 12 ft. building height and 0.4% developmental coverage for proposed new 4,950 square foot building on Union Avenue in a C zone.

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: Moroney's Cycle Shop, I'd like to go back in time a little bit, 13 years ago in 1993, I came before this board and got the variances for an addition to a what is indicated on the drawing as existing building. We received all the necessary variances from this board and that addition was constructed. Mr. Moroney approached me and said listen, I want to put up another building, it's going to be relatively small, 40 x 70 feet, two story and what I have done I bought the parcel next to me which is about 100 feet, I want to merge it into the parcel that I have and build on that parcel. I said fine, you should be all set.

MR. KANE: To the right of the existing building?

MR. SHAW: Correct, to the north of it. And I spoke too soon because once I got into the zoning ordinance I noticed that since 1993, the Town created a classification in the C zone for motor vehicle sales establishments and they included in that definition motorcycles so where before Mr. Moroney was compliant with a one acre parcel now the Town moved up the minimum requirement to five acres and not only did that increase the five acres but they increased also the front yard setback, rear, side yard setbacks, et cetera, et cetera, so where he was compliant back in 1993 now he's not in compliance.

MR. KANE: Do you know when they changed that, Greg?

MR. SHAW: No, I don't know the exact year but with that now he has a whole host of variance tests that we did not think we had to deal with but now we do. So very simply, he wants to build a 2,800 square foot footprint building on that 100, on that 100 foot parcel which he's going to merge into the parent parcel, okay. So the composite parcel now is going to be about 1.635 acres for both pieces after they're merged and he wants to construct that building and also on that parcel he is going to construct 23 parking spaces, okay, which is more than what he needs for this particular building, all right, so it isn't like there's a deficiency on that, we're adding to it, we're more than taking into account in this plan what zoning requires for this building today. It's just that we cannot comply with the bulk requirements once the Town increased it from one acres to five acres.

MR. KANE: Talk to me about the 12 foot building height variance, how tall is the building going to be?

MR. BABCOCK: It's proposed to be 30 feet.

MR. SHAW: Thirty feet high.

MR. KANE: How much over the existing building is that now?

MR. SHAW: I don't know right now, I would, the existing building is two story also but it probably has a flat roof, so I would say 24 feet and that's not an exact number but if I had to pick a number that's probably it with the new building I believe that's where we're going to have a little bit of a pitch so it is going to raise the height.

MR. KANE: But it's going to be off the road and behind the other building to a degree?

MR. SHAW: Correct, with the old C zone it was one foot of building height per one foot to the nearest lot line, now that's off the table with the new bulk requirements 18 feet period.

MR. KANE: Any further questions from the board?

MS. LOCEY: Where is the 4 foot?

MR. SHAW: That's existing on the south side, if you take--

MS. LOCEY: There's only, the building is only 4 feet from the property line?

MR. SHAW: Yeah, the existing building that's right here.

MS. LOCEY: Okay.

MR. SHAW: And that's the far end of the property from the new building.

MR. KANE: Mike, so the side yard setbacks that we gave them in '93 doesn't cover the--

MR. BABCOCK: Well, we're looking at this plan as new today so some of these variances may be duplicated by what was given in the past, we're just cleaning it up with this plan. The lot area, I mean, the motorcycle shop is there, clearly he wants to put another building there, now the zoning has changed like he said, I don't know when it changed myself but it's required that he has five acres, he's there already, he's just adding another building.

MR. KANE: It was already approved previously but since everything has changed we're going to get all the numbers corrected.

MR. SHAW: If you look at the right side of the schedule--

MR. TORPEY: But it's all one lot right now.

MR. BABCOCK: That's correct.

MR. SHAW: You'll see that listed, the variances that were granted back in 1993 by this board, okay, so that's just a little bit more information, you see the variances that we have so when you look at the variances that we're requesting some are not as large as they may be because we already had variances for a partial of that amount.

MS. LOCEY: Are all the requested variances for the existing building?

MR. SHAW: No, you have to take the site in its entirety such as the existing building on the south side is 4 feet from the property line, has nothing to do with our new building but because it's on the same piece of property it has to be in the variance request.

MR. BABCOCK: And the lot area has nothing to do with his new building, only the fact that he wants to build a new building and the minimum zoning is five acres now so it's just cleaning the parcel up.

MR. KRIEGER: I was a little confused about this business about acquiring adjacent parcel, it was done before, it's proposed to be done now?

MR. SHAW: No, what it is is the Moroneys operate on a parcel presently which is 1.0 acres, they purchased a parcel to the north that's 100 feet wide, that's about 6/10 of an acre. They're going to merge the two parcels together, we have an application before the planning board for a 1.6 acre parcel and on this 1.86

parcel we're proposing to build 4,950 square foot building on the northerly portion of the combined parcel.

MR. KANE: So when it's combined, these variances are going to make the whole site legal.

MR. SHAW: That's correct.

MR. KANE: If passed.

MR. BABCOCK: That's correct. If these lots are combined and he doesn't build a new building it only makes the lot better.

MR. KANE: Right, okay.

MR. LUNDSTROM: I will offer a motion, Mr. Chairman, that we schedule Moroney's Cycle Shop for a public hearing on the information that's presented in the agenda on September 25, 2006.

MS. GANN: I will second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

COPPOLA_ASSOCIATES_(FOR_DOUGLAS_CRANA)

COPPOLA_ASSOCIATES_(FOR_ARTHUR_GLYNN)

Mr. Anthony Coppola appeared before the board for this proposal.

MR. KANE: Request for 36,560 square foot minimum lot area, 55 ft. minimum lot width, 26 foot front yard setback, 5 ft. side yard setback and 26 foot rear yard setback for proposed single family home at 22 Cedar Avenue.

MR. KANE: My understanding is the same, we're going to be applying the same map to number 4 so we'll take a look at 3 and 4 at the same time or keep it in mind for number 4, we'll vote on them separately, okay, but at least use the presentation the same. All right, guys?

MR. TORPEY: Yes.

MR. KANE: All set.

MR. COPPOLA: Thank you, Mr. Chairman. What I'm going to do I'll explain the entire property and then we'll go back to the two individual lots. So my name is Anthony Coppola, I'm the architect who prepared the plans. I'm here with Doug Crana and Art Glynn, each man individually owns one of the two lots that we're showing as part of this proposal. And essentially what we're proposing here is there are two existing individual parcels to the intersection of Cedar Avenue and Clancy Avenue, two individual 7,000 square foot lots, they're 70 x 100 feet deep. What's there now is one trailer home that straddles the two lots, it's kind of shown on the plan to be removed, so basically the first thing we're doing here is to propose the removal of that trailer home that's right in the middle of the combined lot and then we're proposing one individual single-family house on each of the existing lots. So we're moving the trailer and proposing one, basically

it's going to be, I'm going to be calling it a one and a half story Cape Cod style house, I have a small rendering if anybody wants to see that, we can show you that. Similar style house is going to go on the corner lot and similar style house will go on the lot in from the corner. Now basically even though these lots are pre-existing they probably predate zoning there and we're asking for variances basically both the same for each lot, they're 7,000 square feet and I believe it's one acre zoning. So that's the largest variance in terms of the lot area, that difference is noted on our bulk table and then there are individual variances for setbacks. Corner lot has two front yards so we can, I'm setting each of the houses back 45 feet so it conforms in terms of the front yard, it doesn't conform, I can't conform it on the corner lot both front yards but we're conforming for one of the two front yards. And then after that as you go through the list we would need variances for the rear yard which I think is required to be 50 feet and then variances for the side yards, one side yard, both side yards of the middle lot. So that's it. Again, we can give you more information regarding what we're doing there for the proposal to the house, I can show you that we have photos, I think we probably gave you photos.

MR. KANE: Which one lot 11 or, which one is Crana and which one is Glynn? Mr. Crana, okay, on lot 12 you have two front yards, right, did you guys cover that for front yard setbacks cause isn't he on the corner of Cedar and Clancy Avenue so where the proposed driveway is on that side that's considered a front yard?

MR. BABCOCK: That's correct.

MR. KANE: So you're going to need to change that.

MR. BABCOCK: We're asking, he's asking for a variance of 26 feet, Mr. Chairman, he meets the front yard setback on Cedar so he's got a front yard requirement,

he's proposing 19 feet.

MR. KANE: I got it.

MS. LOCEY: How did a mobile home ever get placed there?

MR. COPPOLA: What's the history there? I'm going to let one of the two gentlemen, he's asking how did the mobile home come to be?

MR. CRANA: You know Frank and Mary Gerbis in New Windsor? That was Frank's mother's and father's property.

MS. LOCEY: He owns both parcels?

MR. CRANA: Frank's parents live there in that mobile home, they had changed, this mobile home was updated I think in the '80s, early '80s but it had been a pre-existing mobile home from whenever, I don't know from the '50s I think.

MS. LOCEY: So they owned both parcels and placed it in the center of both lots?

MR. CRANA: Correct.

MS. LOCEY: But just continued paying taxes on two separate lots for lack of a better explanation, right?

MR. CRANA: Right.

MR. COPPOLA: The lots are individually owned now.

MS. LOCEY: I understand.

MR. LUNDSTROM: Question, Mr. Chairman, not knowing if this variance would be granted or not the two applicants went and bought the property realizing that

we could say no to this?

MR. COPPOLA: Well, I'm going to let them address how long, in other words, what your history is in terms of like I think you're asking how long they've owned it?

MR. LUNDSTROM: Yes.

MR. CRANA: We purchased the property I'm going to say about seven months ago in hopes that we were going to remove a trailer in hopes that we could put two homes on it, yes, I mean we know there's a risk going into it.

MR. LUNDSTROM: Okay. Another question, Mr. Chairman. Other homes in the area, are they on the regular size or other homes in the area that are on parcels this small?

MR. COPPOLA: I believe you're going to find--

MR. BABCOCK: They're all the same size, Mr. Lundstrom, if you look at tax map, I don't know if you have a copy of that, they're all 70 feet but they're all not exactly that size, there's some lots that are doubles of 35 which is 70, it's just about every lot in that area, I mean, there are some that are smaller and some that are larger.

MS. LOCEY: So if two individual homes were constructed, it would be similar to--

MR. KANE: To the existing neighborhood.

MR. BABCOCK: Absolutely, I don't know about the size of the house, I don't know what size house they're talking about, 27 x 40, that's not a--

MR. KANE: Thirteen hundred square foot is not a big house.

MR. COPPOLA: Yeah, it's not, they're not huge, it's a small, we're putting something that we think is keeping in the neighborhood, it would be something small like this, I'll just give you this. So with a typical cape, you'd have four rooms downstairs and probably two bedrooms and a shared bath upstairs, actually, there's a floor plan there too so we may tinker with that a little bit but we're building within the footprints that we're showing you so you're not really going to get too much too different than what we're proposing here.

MS. GANN: From the pictures, it looks as though this is, you don't have too much scenery here but looks like this is the only mobile home in the area, is that right?

MR. COPPOLA: It probably is as far as, you know.

MR. BABCOCK: There's quite a few mobile homes not right adjacent to these lots.

MR. TORPEY: They're tucked in.

MR. BABCOCK: They're tucked here and there but all the houses in this area, Mr. Chairman, are all probably about that size if not smaller.

MR. KANE: I think it's a good project and the mobile home that's been there is old, old, old.

MR. BABCOCK: If they're asking to build a two story colonial here I don't think it would fit in the character of the neighborhood but I think the homes that they're looking at does.

MR. KANE: Okay, let's set them up for a public hearing unless there's any further questions.

MS. LOCEY: Are we doing two separate?

MR. KANE: We'll vote on both but do them separately so go with number three.

MS. LOCEY: I will offer a motion to schedule a public hearing for the application of Coppola Associates for Douglas Crana for the requested variances as detailed on the agenda of the September 25, 2006 Zoning Board of Appeals meeting.

MR. KANE: For 22 Cedar Avenue.

MR. TORPEY: I'll second that.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Number 4, I'll accept a motion.

MR. LUNDSTROM: I will offer a motion that we schedule a public hearing for the Coppola Associates for Mr. Arthur Glynn request as documented in the September 25 agenda of the Zoning Board for 20 Cedar Avenue.

MS. GANN: I will second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

PUBLIC_HEARINGS:

ANDREW_PERKAL_(06-49)

MR. KANE: Request for 76 square foot area and 5 foot height for existing free-standing sign at 436 Blooming Grove Turnpike.

Mr. Andrew Perkal appeared before the board for this proposal.

MR. KANE: Is there anybody here for this particular meeting? Let the record show there's nobody in the audience for the public portion of this hearing. Okay, Andrew, tell us what you want to do.

MR. PERKAL: This is an existing sign that we inherited with this site and we found that afterwards that it was never properly filed for and it exceeds the limits. So what we want to do is the sign's a little bit bare, we want to enhance it and give it a more traditional flavor to keep it in keeping with the renovations that we're doing and we want to stay with the existing square footage, not going to change anything, but we would just want to file for it so we can use it the way it is, it's a two sided sign so the numbers are on the application in terms of what the excess would be.

MR. KANE: It's going in the same location that you have it now?

MR. PERKAL: We're not touching it, sort of leaving it as is.

MR. KANE: And we're cleaning up, getting legal?

MR. PERKAL: Yes.

MR. KANE: Any illumination internally or flashing?

MR. PERKAL: It does have lights inside.

MR. KANE: Non-flashing?

MR. PERKAL: Non-flashing.

MR. KANE: The sign itself along the road doesn't inhibit vision for drivers going up and down Blooming Grove Turnpike?

MR. PERKAL: I have provided photographs to show that it is set back into the property so it's not blocking anything.

MR. KANE: At this point, I will open it up to the public and close it as there's no public tonight and ask Myra how many mailings we had.

MS. MASON: On September 15, I mailed out 87 addressed envelopes and had no response.

MR. KANE: Your project's coming along really nice, building looks like you're really cleaning it up good. I have no problem with it personally. Any other questions from the board? I'll accept a motion then.

MS. GANN: I will offer a motion that we grant Andrew Perkal's request for 76 square foot area and 5 foot height for existing freestanding sign at 436 Blooming Grove Turnpike.

MS. LOCEY: I will second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

JAMES_DUFFY_(06-05)

MR. KANE: Request for use variance to permit a single family dwelling in a C zone at 22 Old Riley Road.

Daniel Bloom, Esq. appeared before the board for this proposal.

MR. BLOOM: For the record, my name is Dan Bloom, I'm representing the applicants this evening.

MR. KANE: Can you give me one second? I'm assuming there are people here for this particular meeting, okay, I'm just going to send a sheet out so that we can get your name and address. You're the owners. Is there anybody else here for this particular hearing? Okay, thanks.

MR. BLOOM: Thank you, Mr. Chairman. A little bit of background, I represent Mr. and Mrs. James Duffy, they have resided on Old Riley Road for over 54 years and they purchased a lot next to their residence back in 1987, it's just over 3 acres at the time they purchased it, well, I should say this at the time they signed the contract there was a residence on the lot they purchased just prior to the time of the closing, the owner of the lot because the building was old, the Vails Gate Fire Department burned it down, the foundation is still there. At the time we believe it was still zoned residential, although I don't have a copy of the statute from '87 but we believe it was sometime thereafter, though it certainly was rezoned to commercial. The problem is that the property was cut off by the Thruway as we all know and so now they find themselves situated between the Thruway on the west, the Erie Railroad on the east, the veteran's cemetery on the north and 94 on the south and the entrance to 94, it's a very narrow private little lane. My clients purchased it in '87 basically for two reasons, number one, for privacy but more importantly as an investment

for their retirement years. At the present time, they're both over 76 years of age, they survive on Social Security and two small pensions and so they're trying to sell the property for the purpose of raising some income in their retirement. They have been trying to do that for over eight months now and I will submit to the board, Mr. Chairman, in a little while a report from the broker that has been handling the transaction indicating that they don't even wish to list it and show it because all of the interest in it is strictly residential. No one wants to become involved with a commercial operation in this location, it's on a dead-end street, all residential units are around it. It's a very nice, bucolic little residential area, it would be unimaginable to put a commercial operation in there. The result is that my clients find themselves paying real estate taxes since 1987 without having generated a single cent in income on the property. The current taxes on it are \$1,700 a year. In support of that, I would like to submit, Mr. Chairman, I have extra copies of a report prepared by Eldred P. Carhart, certified appraiser. I will summarize it with the board's permission, substantiating the fact that he finds that the only legitimate use, the only use for this property which could generate any income at all would be residential and that he finds that it would be totally inappropriate for any commercial type of operation to be located even in the vicinity of this particular road. And with your permission, I'd like to offer that in evidence at this hearing. And I have extra copies for the board members. I'd also like to submit with your permission at this point, Mr. Chairman, an affidavit that my clients have signed several copies actually for the board members in which they swear under oath the economic status that they find themselves in, that is retired, over 76 years of age, income only off Social Security and two minor pensions and they're looking forward to selling this property hopefully residentially if this board approves so they can generate some income both to save the

property and to help them in their retirement. I have some photographs here, Mr. Chairman, I'd like to pass out but I would like to add this caveat by saying that having been there myself the photographs don't do really justice to the situation because it's such a bucolic, large forested area that I don't think the photographs do justice to the entire scene. As best I could describe it, this particular vacant 3 acre parcel lies between the last house on the dead-end street and my clients' residence which is just before it, it's contiguous to that property, very beautiful, very bucolic, entirely wooded. And I respectfully submit to the board that my clients did not create the hardship when they purchased the property. As best they know, it was residential at the time, they have always kept it for the purpose of privacy and future income, hopefully in the retirement years. If the board grants the application, I respectfully submit that it will not change the environment, the neighborhood, in fact, I believe it will enhance and increase the values of the surrounding houses as opposed to of course a transfer for any commercial use. And finally, attached to the affidavit that I just submitted, Mr. Chairman, it's a letter from the Town attorney to my clients in August of 2004 when my clients first became aware of this situation and sought relief by approaching the Town to see if they could change the zoning and they were notified by the Town attorney at that time that of course to do that would be engaging in spot zoning which is illegal and they suggested that they come to this board for relief, but relief not only for the requested use variance but the Town attorney thought at that time it might be appropriate to also ask this board that if they grant the variance, the use variance to grant associated area variances including the right to have access to 94 because it's on a private road. So based upon those submissions, I respectfully request that this board act favorably upon my clients' request.

MR. KANE: At this point, I will open up the public

portion of the hearing and ask if anybody wants to speak. Seeing as no one wants to speak, we'll close the public portion and ask Myra how many mailings we had.

MS. MASON: On September 15, I mailed out 30 envelopes and had no response.

MR. BABCOCK: I'd just like to add one thing for the board's information. There's a foundation on this property that was a residential house and I think that if I don't know that I knew that until last time they appeared in front of us there's other variances that they could probably seek as far as re-establishing non-conforming use which would probably put them in a position where they'd have to build a house in that exact same space. So this is a much better avenue for them to take so that if somebody wants to build a house other than that location they can do that.

MR. KANE: And it will be done better actually.

MR. BABCOCK: Yes.

MR. TORPEY: How many houses can you put on that lot?

MR. BABCOCK: One house.

MR. TORPEY: That's it?

MR. BABCOCK: That's it.

MR. KANE: It's a very weird shaped piece of property.

MR. BABCOCK: Access is the problem.

MR. KRIEGER: Myra, I was going to ask has the applicant filed a short form EAF?

MS. MASON: Yes, they have.

MR. KRIEGER: So it's a use variance. Before voting on the variance, you'll have to satisfy the requirements of SEQRA for the record, unless I'm advised differently, the zoning board will engage in a uncoordinated review of SEQRA which means this review is for this application only.

MR. KANE: That's correct. Okay, do you guys understand we have to make the SEQRA statement first before we go into the others? Any other questions at this time? Any further questions? I'll accept a motion.

MR. KRIEGER: Go through the SEQRA business.

MR. KANE: Right, SEQRA.

MR. LUNDSTROM: Would our ZBA attorney craft the wording of that for us?

MR. KRIEGER: Yes, I'm about to lay out your options for you. If you may at this point if you feel that you have sufficient information to do this either move to declare a negative declaration which declares in essence that there is no environmental impact as defined in the statute, in which case, if such application were granted that would be the end of the SEQRA process. Alternatively, you may move to declare a conditioned negative declaration conditioned upon the applicant doing whatever the condition proposed is in which case this would have to be kept open to see that condition is satisfied or you may move to declare a positive declaration, meaning that there is some possible environmental impact you need not make a determination that there is in fact an impact only that there is a possible impact in which case this application would have to be kept open to mitigate that impact. The only one of the three that ends the SEQRA process is a motion to declare a negative dec.

MR. LUNDSTROM: Mr. Chairman, did this board, we said that there's no conditions that would preclude us from declaring a negative dec?

MR. KANE: That's the way I feel.

MR. KRIEGER: I can't think of any conditions. I merely outlined the conditioned negative dec because the statute says that that's an option, not that I've heard any information that would lead me to believe this that would not be appropriate.

MR. LUNDSTROM: With that in mind, I will offer a motion that this board declare a negative declaration pertaining to this application.

MS. GANN: I will second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: Okay, so the SEQRAs taken out of the way. Now I'll need a motion to accept. If this is approved, do you understand that this does not bypass any of the building inspector's requirements for building a new home on that piece of property? You would have to meet all their particular requirements. This doesn't give you carte blanche.

MR. BLOOM: Absolutely, Mr. Chairman.

MR. KANE: With that in mind, I'll accept a motion.

MS. LOCEY: I will offer a motion on the application of

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James Duffy to grant a use variance to permit a single family dwelling in a C zone at 22 Old Riley Road.

MR. LUNDSTROM: Mr. Chairman, I will second that motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

ROBERT_RICCARDI_(06-51)

MR. KANE: Request for 2 ft. height for proposed fence in front yard at 4 Buttermilk Drive.

Mr. Robert Riccardi appeared before the board for this proposal.

MR. KANE: Tell us what you want to do.

MR. RICCARDI: Well, I'd like to apply for the two foot variance to put up a vinyl fence about 200 feet long on the back of the property which is considered the front yard. I have three small children, I'd like to put the fence to make the property nicer and also for security reasons for my children.

MR. KANE: Cut down any trees, substantial vegetation in the building of the fence?

MR. RICCARDI: No, sir everything is already clear.

MR. KANE: Creating any water hazards or runoffs?

MR. RICCARDI: No, sir.

MR. KANE: Will the fence block the view of any traffic?

MR. RICCARDI: Not at all.

MR. KANE: At this point, I will ask if there's anybody in the audience here for this particular meeting. Seeing as there's not, we'll open and close the public portion of the meeting and ask Myra how many mailings we had.

MS. MASON: On September 15, I mailed out 64 addressed envelopes and had no response.

MR. KRIEGER: Just as a point of clarification, legally speaking, this is the front yard of your property but visually it appears to be the back yard?

MR. RICCARDI: Yes.

MR. KRIEGER: Do you understand that correctly?

MR. RICCARDI: Yes.

MR. KANE: And the reason for the 6 foot fence rather than 4 foot is more security and privacy?

MR. RICCARDI: Right, there's obviously no trees back there, so my deck sits right there on the back and we'd like to have a little bit more privacy.

MR. KANE: Any other questions? I'll accept a motion.

MR. LUNDSTROM: I will offer a motion that this board grant the request for two foot height variance for proposed fence in front yard of 4 Buttermilk Drive in a CL-1 zone.

MS. GANN: Second the motion.

ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

MR. KANE: There are no formal decisions to handle.
Motion to adjourn?

MR. LUNDSTROM: So moved.

MS. GANN: Second it.

September 25, 2006

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ROLL CALL

MS. GANN	AYE
MR. LUNDSTROM	AYE
MS. LOCEY	AYE
MR. TORPEY	AYE
MR. KANE	AYE

Respectfully Submitted By:

Frances Roth
Stenographer